THE HONOURABLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.13611 OF 2006

DATED 10.04.2007

BETWEEN

Sunkara Chakra Rao and others

… Petitioners

AND

The Commissioner of Department of Endowments, Boggulakunta, Tilak Road, Hyderabad and others.

… Respondents

THE HONOURABLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.13611 OF 2006

ORDER:

The petitioners who are twenty (20) in number filed the writ petition

seeking a writ of Mandamus declaring the action of the respondents in auctioning the agricultural lands belonging to Nalamvari Choultry, Rajahmundry, third respondent herein, as illegal and arbitrary. They also seek a direction to the respondents to conduct enquiry into the question of conferring the benefit on the petitioners under Section 82(2) of A.P.Charitable and Hindu Religious Institutions and Endowments Act, 1987 (the Act, for brevity).

It is the case of the petitioners that the predecessors of the petitioners are cultivating tenants of the land belonging to third respondent since 1950. The petitioners succeeded to the lease and they were paying regularly the lease amount as enhanced from time to time. The petitioners also allege that they were given to understand that the land would be alienated in their favour as per the relevant provisions of the Act and the Rules. It is their case that in 2003, Indian Peoples Front (IPF), a Marxist and Leninist Organisation, openly declared that the lands belonging to Hindu Religious Temples would be occupied. In the process, the lands in possession of the petitioners except to an extent of Acs.3.00 to 4.00 were occupied. They contend that as actual land in their possession is less than Acs.5.00, they are entitled to be declared as landless poor persons. Therefore, all of them submitted representations before the Assistant Commissioner under Rule 3 of A.P.Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Lands Rules, 2003 (the Rules, for brevity). They allege that while these applications are pending, second respondent is proposing to conduct auction and accordingly issued a notification on 14.06.2006. Apprehending that they might be dispossessed from the land in possession, they filed the instant writ petition.

First respondent as well as third respondent filed separate counter affidavits. In brief, it is their case that after considering various applications submitted by the petitioners, the Assistant Commissioner passed orders under Rule 3 of the Rules rejecting the claim of the petitioners as landless poor persons and they did not prefer any appeals under Rule 4 of the Rules before the Regional Joint Commissioner. It is further stated that the third respondent also filed suits for recovery of rents, which are still pending, and therefore, the writ petition is not maintainable. It is further stated that as the applications of the petitioners were rejected, public auction was conducted on 14.07.2006 and the highest bidder is already handed over possession. The petitioner has not filed any reply affidavit denying the same.

The petitioners approached this Court alleging that their applications under Rule 3 of the Rules seeking a declaration that they are landless poor persons, are pending before the Regional Joint Commissioner. This is denied by the respondents. Along with the

counter affidavits, the copies of the orders passed by the Assistant Commissioner under Rule 3(2) of the Rules are also annexed. The claim of the petitioners was rejected on the ground that the petitioners are in possession of the land in excess of the limit prescribed under Section 82(2) of the Act. In such background, the remedy of the petitioner is to approach the Regional Joint Commissioner, who is appellate authority, under Rule 4 of the Rules and seek their redressal. If the petitioner succeeds before the Regional Joint Commissioner and their plea that they are landless poor persons is upheld, they can also move proper applications for restoration of the land. In this writ petition, no relief can be granted.

Therefore, the writ petition is disposed of giving liberty to the petitioners to prefer Appeals before Regional Joint Commissioner, Kakinada, within a period of ten days from the date of receipt of copy of this order. As and when such Appeals are filed, the appellate authority may consider the Appeals and pass appropriate orders within a period of eight weeks thereafter. No costs.

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(V.V.S.RAO,J)

10.04.2007.
pln

Note: CC by 12.04.2007
(By order)
pln